

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ANN ALTMAN,

Plaintiff,

v.

SAMUEL ALTMAN,

Defendant.

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No. 4:25-cv-00017-SEP

**PLAINTIFF ANN ALTMAN'S MOTION FOR LEAVE TO FILE A SUR-REPLY IN
RESPONSE TO DEFENDANT'S REPLY IN SUPPORT OF HIS MOTION TO DISMISS**

COMES NOW Plaintiff, Ann Altman, by and through her attorneys, Mahoney Law Firm, LLC, and pursuant to Local Rule 4.01(C), respectfully requests leave of court to file a Sur-Reply in Response to Defendant's Reply in Support of his Motion to Dismiss no later than May 23, 2025.

1. On May 14, 2025, Defendant, Samuel Altman, filed his Reply to Plaintiff's Response to Defendant's Motion to Dismiss.

2. Defendant's Reply raises one issue that Plaintiff feels justifies a short response.

3. Local Rule 4.01(C) provides "Additional memoranda may be filed by either party only with leave of Court." While Plaintiff recognizes that sur-replies are not permitted as a matter of course, "the Court has discretion to permit a sur-reply when justice requires." *Johnson v. City of Leadington*, No. 4:19-CV-02282-SEP, 2022 WL 179218, at *10 (E.D. Mo. Jan. 20, 2022) (Pitlyk, J.). When a party raises new arguments in a reply brief, a sur-reply may be justified. *Id.*

4. Here, Defendant introduces a new argument in his Reply to Defendant's Motion to Dismiss contending that Plaintiff does not dispute that Section 537.046, "by its plain terms, does not authorize punitive damages," and that punitive damages are unavailable under that statute

unless it codifies a common-law tort. Plaintiff does not concede this issue and Defendant is completely misconstruing Plaintiff's Response brief by raising this argument.

5. In light of the fact that no hearing is scheduled on the pending Motions to Dismiss, Plaintiff will not have an opportunity to address the newly-raised argument in Defendant's Reply absent being permitted to file a sur-reply to same.

6. Therefore, Plaintiff seeks leave to file a short sur-reply for the limited purpose of addressing Defendant's argument.

7. Granting this motion will not prejudice any party.

WHEREFORE, Plaintiff, Ann Altman, requests the Court grant her leave to file a Sur-Reply no later than May 23, 2025, and for such other and further relief as the Court deems just.

Respectfully submitted,

By: /s/ Ryan J. Mahoney

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CERTIFICATE OF SERVICE

I, Ryan J. Mahoney, hereby certify that on May 21, 2025, a copy of the foregoing was electronically filed with the Clerk of the Court using the Court's CM/ECF system, which will send notification of the filing to all counsel of record.

/s/ Ryan J. Mahoney